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7 **UNITED STATES DISTRICT COURT**
8 **DISTRICT OF NEVADA**
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10 EDWARD C. BREINER, *et al.*,

11 Plaintiffs,

12 v.

13 NEVADA DEPARTMENT OF
14 CORRECTIONS, *et al.*,

15 Defendants.

Case No. 2:05-CV-01412-KJD-RJJ

ORDER

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17 Presently before the Court is Plaintiffs' Motion to Strike Defendants' Successive Motion for
18 Summary Judgment (#90). Having read and considered Plaintiffs' motion, it is denied.

19 On August 9, 2010, the Order on Mandate (#79) of the Court issued, reopening this action
20 after the Court's entry of judgment had been reversed and remanded by the Ninth Circuit Court of
21 Appeals. On September 23, 2010, Defendants filed a Motion for Leave to File Successive Summary
22 Judgment Motion (#86). Given the age of the case and seeking to move the case to a resolution, the
23 Court improvidently granted Defendants' motion on October 1, 2010 before Plaintiffs' time to file a
24 response in opposition had run.

25 On October 4, 2010, Defendants filed the Motion for Partial Summary Judgment (#88). On
26 October 11, 2010, Plaintiffs filed the present motion to strike and a Motion for Reconsideration

1 (#89). Plaintiffs make the histrionic assertion that they were informed that the Court has a policy to
2 grant motions for leave without waiting for a response, essentially having a policy of violating
3 parties' due process rights.

4 The Court declines to strike the successive motion for summary judgment until resolution of
5 the motion for reconsideration. If the Court denies the motion for reconsideration, needless
6 confusion from repetitive docket entries will occur. However, the Court will stay briefing on the
7 motion for summary judgment until the motion for reconsideration is resolved. If the Court grants
8 the motion, the Court will simultaneously order that the motion for summary judgment be stricken.
9 If the motion is denied, the Court will set a briefing schedule on the motion for summary judgment.

10 Accordingly, **IT IS HEREBY ORDERED** that Plaintiffs' Motion to Strike Defendants'
11 Successive Motion for Summary Judgment (#90) is **DENIED**;

12 **IT IS FURTHER ORDERED** that briefing on Defendants' Motion for Partial Summary
13 Judgment (#88) is **STAYED**.

14 DATED this 20TH day of October 2010.

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18 Kent J. Dawson
19 United States District Judge
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